IN THE UNITED STATES DISTRICT COMBTERN DISTRICT OF TEXAS FOR THE EASTERN DISTRICT OF TEXAS AUG 1 1 2003 OS AUG II PH 8: CA TEXARKANA DIVISION

DAVID J. MALAND, CLERK SCOTT O'GRADY, Plaintiff, **CIVIL ACTION NO. 502CV173** v. **JURY DEMANDED** TWENTIETH CENTURY FOX FILM CORPORATION, and ORAL ARGUMENT REQUESTED DISCOVERY COMMUNICATIONS, INC.,

## **DEFENDANT DISCOVERY COMMUNICATIONS, INC.'S** UNOPPOSED MOTION FOR LEAVE TO EXCEED THE PAGE LIMIT ON ITS REPLY TO PLAINTIFF SCOTT O'GRADY'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

Defendants.

Defendant Discovery Communications, Inc. ("DCI"), by undersigned counsel, files this Unopposed Motion for Leave to Exceed the Page Limit on its Reply to Plaintiff Scott O'Grady's Response in Opposition to Defendants' Motions for Summary Judgment, pursuant to Local Rule CV-7, and in support of this motion will show:

- Pursuant to the Court's Third Amended Docket Control Order of July 7, 2003 1. ("Third Amended Order"), any replies dispositive motions in the trial of the above-entitled and numbered action are required to be filed and served on or before August 11, 2003.
- Defendant DCI intends to file a reply to Plaintiff Scott O'Grady's Response in 2. Opposition to Defendants' Motions for Summary Judgment in this case.
- 3. Local Rule CV-7 provides that motions in reply shall not exceed ten pages, including attachments. Local Rule CV-7.



- 4. Plaintiff asserts five federal and state causes of action in his Complaint against defendants DCI and Twentieth Century Fox Film Corporation ("Fox Film"). In addition, Plaintiff has served a 74-page Response in Opposition to Defendants' Motions for Summary Judgment. Because of the number and nature of the claims raised in Plaintiff's Complaint, and the number and nature of the arguments in Plaintiff's Response, for DCI to adequately address Plaintiff's Complaint and Response in its Reply with appropriate authority and argument, DCI seeks leave to exceed the page limit proscribed by the Local Rules for reply motions and to file a motion not to exceed 22 pages.
- 5. In addition, DCI seeks to leave to file an appendix to its Reply, containing deposition excerpts, an expert declaration and exhibits to rebut arguments raised in Plaintiff's Response, not to exceed 140 pages which includes, as Tab 1, Discovery Communications, Inc.'s Response to Plaintiff's Genuine Issues of Material Fact and Response to DCI's Undisputed Statement of Material Fact (with Attachment A Setting Forth Uncontroverted and Controverted Facts Asserted by Plaintiff to DCI's Rule 56 Statement).
- 6. DCI has conferred with plaintiff's counsel regarding the substance of this motion.

  This motion is unopposed.

WHEREFORE, Defendant Discovery Communications, Inc. prays that this unopposed motion be granted and that the Court enter an order enlarging the page limit on DCI's Reply to

Plaintiff's Response in Opposition to Defendants' Motions for Summary Judgment up to 23 pages and for its appendix, up to 157 pages.

Dated this 11th day of August, 2003

Respectfully submitted,

Laura K. Handmah

by

Laura R. Handman, Esq. (be permission Victor Hlavinka)

(Attorney-In-Charge, pro hac vice)

Constance M. Pendleton, Esq. (pro hac vice)

DAVIS WRIGHT TREMAINE LLP

1500 K Street, N.W., Suite 450

Washington, D.C. 20005-1272

(202) 508-6600

(202) 508-6699 facsimile

laurahandman@dwt.com

Victor F. Hlavinka ATCHLEY, RUSSELL, WALDROP & HLAVINKA, L.L.P. 1710 Moores Lane P.O. Box 5517 Texarkana, TX 75505-5517 (903) 792-8246 (903) 792-5801 facsimile vh@arwhlaw.com

Attorneys for Defendant Discovery Communications, Inc.

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 11<sup>th</sup> day of August 2003, true and correct copies of the foregoing Defendant Discovery Communications, Inc.'s Unopposed Motion for Leave to Exceed the Page Limit on its Reply to Plaintiff Scott O'Grady's Response in Opposition to Defendants' Motions for Summary Judgment and proposed order were served by facsimile and first class mail, postage prepaid, upon:

George E. Bowles, Esq. C.W. Flynn, Esq. Roy W. Hardin, Esq. Scott Hastings, Esq. John D. Wiseman, Esq. Locke Liddell & Sapp LLP 2200 Ross Avenue, Suite 2200 Dallas, TX 75201-6776

G. William Lavender, Esq. Lavender Law Landmark Building 210 N. State Line, Suite 503 Texarkana, AR 71854

Charles L. Babcock, Esq. Jackson Walker, L.L.P. 901 Main Street, Suite 6100 Dallas, Texas 75202-3797

Nancy Wells Hamilton, Esq. Jackson Walker, L.L.P. 1401 McKinney Suite 1900 Houston, Texas 77010

George L. McWilliams, Esq.
Patton, Haltom, Roberts, McWilliams & Greer, L.L.P.
2900 St. Michael Drive, Suite 400
P.O. Box 6128
Texarkana, TX 75503

Victor F. Hlavinka